

REMARKS

Claims Rejection Under 35 USC - 103

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Thayer et al** (6,131,209) in view of **Beames** (D 466,543).

Thayer et al teach a single lens in the frame, Thayer et al does not teach that a pair of lenses as that claimed by Applicant.

The Examiner discusses that Thayer teaches eyeglasses which have the objective of correction of vision of the eye. The present invention relates to sunglasses, and therefore does not have the objective which is taught as the Examiner claims by Thayer. The present invention claims sunglasses for baby and toddlers with the objective being to protect their eyes. The Examiner states that Thayer and Beames only differ in aesthetic features.

Thayer teaches a cleaning apparatus for eyewear, nowhere does it discuss sunglasses. Again, as previously stated, the cleaning apparatus is necessary and therefore, the "consisting of" language of the present claims cannot be taught by the present combination of Thayer and Beames. Accordingly, not only does the present invention and Thayer do not teach the same thing, but since the title of Beames is sunglasses, the same objective is not taught by Thayer and Beames.

For these reasons, the above claims are not obvious over the prior art.

Claims Rejection Under 35 USC - 103

Claims 13-15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Sadowsky** (5,042,094).

Sadowsky discloses eyewear with prosthetic parts for small children comprises frame (30) for holding two lenses (20), the frame (the frame 30 is constructed with resilient material, preferably also soft and pliable see column 3, lines 21 and 22) secured to a head by a band (40), said band (40) secured to the frames by two securing pieces (42) including Velcro is used for both securing pieces and the band (40) can be totally removed from the frame and replaced with other similar band (see figure 1 and the related disclosure.) Note that solid frame means the frame having the interior completely filled up and free from cavity, or not hollow.

As previously stated, Sadowsky cannot anticipate or make obvious the claims of the present invention. The claims use "consisting of" language. Sadowsky specifically states that it teaches a specifically designed nose and temple pieces that are incorporated into the frame of the glasses. As stated previously, prosthetic appendages 34 and 36 must be included in Sadowsky. Therefore, the above claims are not anticipated or obvious over Sadowsky.

Claims Rejection Under 35 USC - 102

Claim 13 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Laschober** (4,930,885).

Laschober discloses eyeglasses with resealable headband support arrangement comprises one piece solid molded frame (14) for holding two lenses (16), the frame (14) having a nose bridge (18) with fits on top of the user nose, the frame (14) secured to a head by a band (28), said band (28) secured to the

frames by two securing pieces (30), wherein the band (28) is removed from the frame by either or both of the securing means (see figures 1-4 and the related disclosure.)

Laschober requires an attachment member adapted for releasable securement to a connector member. Since the claims require "consisting of" language, Laschober cannot anticipate or make obvious the claims.

Again, in response to applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in either the references themselves or in the knowledge generally available to one of ordinary skill in the art.

In this case, eyeglasses have long been designed with the general objective of correction the vision of the eye of the wears. As discussed previously, the glasses of the present invention are not for the correction of the vision of the eye of the wearer, but to protect their eyes from the sun. Therefore, the Examiner's argument is incorrect.

Sadowsky requires nose and temple pieces incorporated into the frame of the device. The device of the present invention does not have any temple pieces. The device of Sadowsky includes prosthetic appendages 34 and 36. Since the language of the claims is "consisting of" and Sadowsky adds extra parts to their glasses which are outside the scope of the claims, the claims must

be allowable over Sadowsky". The Examiner argues that the prosthetic appendages 36 are parts of the frame, prosthetic appendages 36 and the frame is one piece (see column 3, lines 41 and 42). Therefore, the claimed invention does not distinguish over Sadowsky device.

The Examiner's argument supports applicant's argument. The Examiner agrees that Sadowsky adds prosthetic appendages that under "consisting of" language cannot be part of the claims. Therefore, the claims must be allowable over Sadowsky.

The Examiner states that applicant's previous arguments are not persuasive because the Laschober device teaches every feature of the claimed invention. Laschober discloses eyeglasses with releasable headband support arrangement comprises one piece solid molded frame (14) for holding two lenses (16), the frame (14) having a nose bridge (18) which fits on top of the upper nose, the frame (14) secured to a head by a band (28), said band (28) secured to the frames by two securing pieces (30), wherein the band (28) is removed from the frame by either or both of the securing means (see figures 1-4 and the related disclosure). Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such reference or objections.

Applicant previously stated and has stated above that Laschober teaches elements beyond what is claimed in the claims of the invention. Therefore, under the "consisting of" language, Laschober cannot anticipate or make obvious the claims.

Applicant believes the application is in condition for allowance.

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